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IN THE

Supreme Court of the United States

October Term, 1957

No. 192

A. LINCOLN GREEN, *Petitioner*,

v.

J. STANLEY BAUGHMAN, President, Federal National Mortgage Association, et al., *Respondents*.

PETITIONER'S REPLY TO THE RESPONDENTS' BRIEF

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Respondents assert that "the Government has at no time defended the suit upon the basis that the wrong defendant was named." (Resps. Br. 7). A contention that the Chairman made the decision is a contention that the wrong defendant has been named. Based upon this contention the court below substituted the Chairman and affirmed a judgment on the merits. Thus the court, in finding against petitioner, gave as a reason that "no charge of bias against the Chairman was made." (Pet. 8a). This reason applies to the entire complaint. No claim of any kind was made against the Chairman. When the court selects and

substitutes defendants, it has decided the issues against the plaintiff. Were it not for this contention, resting on a few words conveniently obtained, petitioner would be entitled to judgment because of the admitted lack of authority of respondent, Baughman.

Petitioner was not misled by the signature to the decision-letter nor did he erroneously sue Baughman. Respondents on the first appeal in the court below, No. 12717, said in their brief:

> 3. Equally without substance is appellee's allegation in the fourth count of the complaint that the decision of dismissal, although signed by Baughman, was not made by him. In view of the fact that both the statement of charges and the letter of dismissal were signed by Baughman, and the dismissal affirmed in its procedural as well as its substantive aspects by the Chief Law Officer and the Board of Appeals and Review of the Civil Service Commission, and the Commissioners themselves, such a contention is obviously frivolous. (p. 30)
>
> The matter was considered by the Chairman of the Board of FNMA and, with his concurrence, J. Stanley Baughman, the President, formally found that the charges were sustained. (p. 8)
>
> Before this appeal was heard by the Commission, however, appellee sued for reinstatement in the United States District Court for the District of Columbia, alleging, *inter alia*, that the statement of charges against him was not sufficiently specific to meet statutory requirements, and that Baughman, the administrative officer who made the decision dismissing appellee, was biased and prejudiced against him. (p. 2)

Respondents assert that "the fact that both Baughman and Foley approved petitioner's dismissal does not detract from its validity, but rather emphasizes that his case received careful review." (Resps' Br. 7). Two heads may make for a more careful review and undoubtedly respondents may be able to offer other innovations and improve-

ments on the statute. But the statute concentrates the function and responsibility in one person and respondent, Baughman, was named in the charges to be that person. Respondents claim a discretion to partition the function and diffuse the responsibility.

These contentions serve but to expose the indefensibility of the procedures approved in the court below to sustain petitioner's dismissal.

Respectfully submitted,

A. Lincoln Green,
Petitioner pro se.